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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/811,878

03/30/2004

Akihisa Sato

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EXAMINER

ADAMS, CHARLES D

ART UNIT

PAPER NUMBER

2164

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/811,878

Applicant(s)

SATO ET AL.

Examiner

Charles D. Adams

Art Unit

2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3-30-03 & 7-25-05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 3-4, 8, and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

As to claim 3, the claim recites the limitation “wherein said access process section comprises at least first and second access process for processing different phases of said access request”. However, no mention is made in the specification of ‘phases’, and the specification provides no insight as to what “processing different phases of an access request” means. The claim itself does not provide enough detail so that one of ordinary skill in the art at the time the invention was made could ascertain its meaning.

As to claim 4, the specification is silent on what a plurality of configurations for each of said first and second access process sections could mean. The specification provides no information on possible combinations capable of processing said access

request. The claim itself does not provide enough detail so that one of ordinary skill in the art at the time the invention was made could ascertain its meaning.

As to claim 8, the claim recites the limitation “for each of first and second access process sections to serially process said access request and for possible combinations of configurations of said first and second access process sections”. No mention is made in the specification of processing requests ‘serially’ or of ‘possible combinations of configurations of said first and second access process sections’. The claim itself does not provide enough detail so that one of ordinary skill in the art at the time the invention was made could ascertain its meaning.

As to claim 10, the claim recites the limitation “to serially process said access request and for possible combinations of configurations of said first and second access process sections. No mention is made in the specification of processing requests ‘serially’ or of ‘possible combinations of configurations of said first and second access process sections’. The claim itself does not provide enough detail so that one of ordinary skill in the art at the time the invention was made could ascertain its meaning.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 8 and 10 recite the limitation "for possible combinations of configurations of said first and second access process sections".

However, as stated in MPEP § 2106 Section II(C):

Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation.

A limitation that is stated as 'possibly' occurring may not actually occur, and thus bears no patentable weight.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 5-7, and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krum (US Patent 6,618,742) in view of Sekijima et al. (US Patent 6,957,429).

As to claim 1, Krum teaches an information processing system comprising an information processing apparatus which is used to operate a plurality of applications to

request data input/output from a storage (see 2:44-48); and a management host which manages said storage (see 2:44-48),

Wherein said storage and said information processing apparatus constitute an access process section for processing an access request from said application (see 2:48-52);

Wherein said information processing apparatus comprises an access monitoring section which monitors an access request from said application and obtains information about said access request for each of said applications (2:52-58 and 3:14-22); and

Wherein said management host comprises:

An acceptance section which accepts specification of a new application (see 2:52-58);

An estimated load calculation section which calculates estimated load data in case of addition of said new application based on information obtained by said access monitoring section (see 3:42-49 and 4:8-19); and

Krum does not teach a load data output section which outputs estimated load data calculated by said estimated load calculation section.

Sekijima et al. teaches a load data output section which outputs estimated load data calculated by said estimated load calculation section (see 3:53-59).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Krum by the teaching of Sekijima et al., since Sekijima et al. teaches that “the present invention presents users with a list of applicable services dynamically updated and enables the users to specify selective

combinations of the services. Thereby, the present invention provides service users with the easy recognition of applicable services, flexible selection of services to meet users' purposes, and smooth application of selected services to relevant data" (see 2:47-53).

As to claim 2, Krum as modified teaches wherein said management host comprises a current load calculation section which calculates current load data based on information obtained by said access monitoring section (see Krum 3:42-49); and

Wherein said estimated load calculation section calculates estimated load data in case of addition of said new application based on current load data calculated by said current load calculation section and based on information obtained by said access monitoring section (see Krum 4:8-19).

As to claim 3, Krum as modified teaches the information processing system according to claim 1.

Krum does not teach wherein said access process section comprises at least first and second access process sections for processing different phases of said access request;

However, that limitation of the claim has been rejected under 35 USC 112, 1st paragraph above. The specification does not provide an explanation sufficient to enable one skilled in the art to ascertain scope of the stated limitation.

Krum teaches wherein said estimated load calculation section calculates each of estimated load data in said first access process section and estimated load data in said

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second access process section when a new application is added (see Krum 2:66-3:2, 3:42-49, and 4:8-19).

As to claim 5, Krum teaches:

An information processing system comprising a storage which stores a database (see Figure 1, Application Server System), a plurality of information processing apparatuses which are used to operate an application requesting data input/output from said storage (See figure 1, and 2:66-3:2), and a management host which manages said storage (see 2:66-3:6),

Wherein said information processing apparatus comprises:

a database management system which processes an access request from said application to said database (see 2:47-52, 4:67-5:3);

An access monitoring section which monitors an access request sent from said application to said database management system and obtains information about said access request (see 2:52-58 and 3:14-22); and

An access information output section which collects information about said access request and adds up said information correspondingly to said application (see 3:14-22 and 4:67-5:3), and

Wherein said management host comprises:

An acceptance section which accepts specification of a new application (see 2:66-3:2);

A current load calculation section which calculates current load data based on information obtained by said access monitoring section (see 3:42-49);

An estimated load calculation section which calculates estimated load data in case of addition of said new application based on current load data calculated by said current load calculation section and based on information obtained by said access monitoring section (see 3:42-49 and 4:8-19);

Krum does not teach a load data output section which outputs estimated load data calculated by said estimated load calculation section

Sekijima et al. teaches a load data output section which outputs estimated load data calculated by said estimated load calculation section (see 3:53-59)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Krum by the teaching of Sekijima et al., since Sekijima et al. teaches that "the present invention presents users with a list of applicable services dynamically updated and enables the users to specify selective combinations of the services. Thereby, the present invention provides service users with the easy recognition of applicable services, flexible selection of services to meet users' purposes, and smooth application of selected services to relevant data" (see 2:47-53).

Krum as modified teaches:

A configuration setup section which sets up a change in configuration of said storage based on estimated load data calculated by said estimated load calculation section (see Krum 2:58-62 and 4:20-37).

As to claim 6, Krum teaches an information processing system comprising a storage which stores a file (see Figure 1, Application Server System), a plurality of information processing apparatuses which are used to operate an application requesting input/output of data stored in a file from said storage (See figure 1, and 2:66-3:2. Requesting to run a 'job' will receive input / output from a file on a farm system, see 4:67-5:3), and a management host which manages said storage (see 2:66-3:6),

Wherein said information processing apparatus comprises:

A file system which processes an access request from said application to said file (see 2:47-52, 4:67-5:3);

An access monitoring section which monitors an access request sent from said file system to said storage and obtains information about said access request (see 3:14-22); and

An access information output section which collects information about said access request and adds up said information correspondingly to said application (see 3:14-22 and 4:67-5:3),

Wherein said management host comprises:

An acceptance section which accepts specification of a new application (see 2:66-3:2);

A current load calculation section which calculates current load data based on information obtained by said access monitoring section (see 3:42-49);

An estimated load calculation section which calculates estimated load data in case of addition of said new application based on current load data calculated by said

current load calculation section and based on information obtained by said access monitoring section (see 3:42-49 and 4:8-19);

Krum does not teach:

A load data output section which outputs estimated load data calculated by said estimated load calculation section;

Sekijima et al. teaches a load data output section which outputs estimated load data calculated by said estimated load calculation section; (see 3:53-59)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Krum by the teaching of Sekijima et al., since Sekijima et al. teaches that "the present invention presents users with a list of applicable services dynamically updated and enables the users to specify selective combinations of the services. Thereby, the present invention provides service users with the easy recognition of applicable services, flexible selection of services to meet users' purposes, and smooth application of selected services to relevant data" (see 2:47-53).

Krum as modified teaches:

A configuration setup section which sets up a change in configuration of said storage based on estimated load data calculated by said estimated load calculation section (see Krum 2:58-62 and 4:20-37).

As to claim 7, Krum teaches a control method of an information processing system comprising an information processing apparatus which is used to operate a plurality of applications to request data input/output from a storage (See figure 1, and

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2:66-3:2. Requesting to run a 'job' will receive input / output from a farm system, see 4:67-5:3); and a management host which manages said storage (see 2:66-3:6), said method comprising the steps of:

Monitoring an access request from said application (see 2:47-52, 4:67-5:3);

Obtaining information about said access request for each of said applications (see 3:14-22);

Calculating current load data based on information about said obtained access request (see 3:42-49);

Accepting specification of a new application (see 2:66-3:2);

Calculating estimated load data in case of addition of said new application based on information about said obtained access request (see 3:42-49 and 4:8-19);

Calculating estimated load data in case of addition of said new application based on said calculated current load data and information about said obtained access request (see 3:42-49 and 4:8-19);

Krum does not teach outputting calculated estimated data.

Sekijima et al. teaches outputting calculated estimated data (see 3:53-59)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Krum by the teaching of Sekijima et al., since Sekijima et al. teaches that "the present invention presents users with a list of applicable services dynamically updated and enables the users to specify selective combinations of the services. Thereby, the present invention provides service users with

the easy recognition of applicable services, flexible selection of services to meet users' purposes, and smooth application of selected services to relevant data" (see 2:47-53).

As to claim 9, Krum teaches a program to calculate load data in an information processing system comprising an information processing apparatus which is used to operate a plurality of applications to request data input/output from a storage (See figure 1, and 2:66-3:2. Requesting to run a 'job' will receive input / output from a farm system, see 4:67-5:3); and a management host which manages said storage (see 2:66-3:6),

Wherein said program allows said system to function as:

Means for monitoring an access request from said application and obtaining information about said access request for each of said applications (see 3:14-22);

Means for calculating current load data based on information about said obtained access request (see 3:42-49 and 4:8-19);

Means for accepting specification of a new application (see 2:66-3:2);

Means for calculating estimated load data in case of addition of said new application based on information about said obtained access request (see 3:42-49 and 4:8-19);

Means for calculating estimated load data in case of addition of said new application based on said calculated current load data and information about said obtained access request (see 3:42-49 and 4:8-19); and

Krum does not teach means for outputting said calculated estimated load data.

Sekijima et al. teaches means for outputting said calculated estimated load data (see 3:53-59).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Krum by the teaching of Sekijima et al., since Sekijima et al. teaches that “the present invention presents users with a list of applicable services dynamically updated and enables the users to specify selective combinations of the services. Thereby, the present invention provides service users with the easy recognition of applicable services, flexible selection of services to meet users’ purposes, and smooth application of selected services to relevant data” (see 2:47-53).

As to claim 10, Krum teaches wherein means for calculating estimated load data calculated estimated load data in case of addition of a new application for each of first and second access process sections (see 2:66-3:6, 3:13-22, 4:8-19).

The remainder of the claim is rejected under 35 USC 112, 1st paragraph above.

5. A search has been performed on the claims, and though prior art is not used in the rejection of claims 4 and 8, the claims are not allowed.

Conclusion

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles D. Adams whose telephone number is (571) 272-3938. The examiner can normally be reached on 8:30 AM - 5:00 PM, M - F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Charles Adams
AU 2164



SAM RIMELL
PRIMARY EXAMINER